

May 27, 2003

Ms. Marlene Dortch  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

RECEIVED

MAY 27 2003

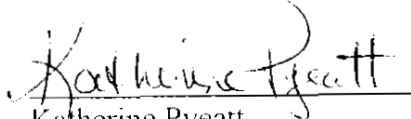
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Petition for Rule Making  
George West, Texas (MB Docket No. 03-86)  
Counterproposal

Dear Ms. Dortch:

Enclosed is an original and four (4) copies of my Counterproposal in response to the  
Petition for Rule Making for George West, Texas.

Respectfully submitted,



Katherine Pyeatt  
6655 Aintree Circle  
Dallas, Texas 75214  
(214) 363-6030 Tele

MB 03-86/03 rec'd 014  
06/1/03

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

**RECEIVED**

MAY 27 2003

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Amendment of 73.202 (b)	)	MM Docket No. 03-86
Table of Allotments	)	RM-10685
FM Broadcast Stations	)	
(George West, Texas)	)	

To: John Karousos, Assistant Chief  
Audio Division of the  
Media Bureau

**COUNTERPROPOSAL**

I, Katherine Pyeatt, hereby submit this counterproposal requesting that the Commission amend Section 73.202(b) of its Rules, FM Table of Allotments, to allot FM Channel 245C3 to Christine, Texas in lieu of Channel 250A to George West, Texas as proposed in the Notice of Proposed Rule Making in the above-captioned proceeding.

As demonstrated in the attached channel study, this proposal conflicts with the NPRM proposal to allot Channel 250A to George West, Texas. However, the Commission should favor the counterproposal over the George West proposal. The George West NPRM is proposing the fourth local FM service to the community of George West. Whereas, the counterproposal is providing for a 1<sup>st</sup> local service to the community of Christine, Texas.

Christine, Texas is an incorporated community with a population of 436.<sup>1</sup> Christine has its own mayor, Walter Stevens, its own city office, its own volunteer fire department, post office, city offices and several local churches. The Petitioner respectfully submits that the public interest would be served by allocating Channel 245C3 to Christine as that community's first local FM service. The proposed channel 245C3 will provide additional diversity and an outlet for local self-expression to Christine residents and therefore is in the public interest.

In order for Channel 245C3 to be allotted at Christine, Texas, the pending allotment for Channel 245C3 at Tilden, Texas will need to be replaced with Channel 250A. The substitution of Channel 250A for Channel 245C3 at Tilden, Texas has the

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<sup>1</sup> Source: Texas Almanac 2002/ 2003.

approval of the original proponent and only person to file an expression of interest in that proceeding. (See, Attachment A)

The proposed changes are as follows:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Christine, TX	-----	245C3
Tilden, TX	245C3	250A

Attached hereto is a channel study confirming that Channel 245C3 can be allocated to Christine, Texas, consistent with the FCC's FM separation rules provided the necessary changes are made at Tilden. See revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1992). (See, Attachment B) Note: Channel 245C1 at San Antonio was dismissed by Report & Order, DA 03-1533, released May 8, 2003. (See, Attachment C)

Reference coordinates for Channel 245C3 at Christine are:

28 42 42 N  
98 24 09 W

In order for Channel 245C3 to be allotted at Christine, Texas, the pending allotment for Channel 245C3 at Tilden, Texas must be replaced by Channel 250A. Attached hereto is a channel study confirming that Channel 250A can be allocated to Tilden, Texas, consistent with the FCC's FM separation rules. See revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1992). (See, Attachment D) Note: Channel 249C1 at Converse was dismissed by Report & Order, DA 03-1533, released May 8, 2003. (See, Attachment C)

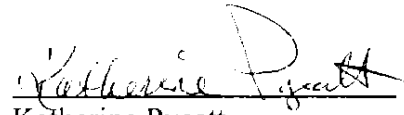
Reference coordinates for Channel 250A at Tilden, Texas are:

28 26 29 N  
98 32 47 W

Should this counterproposal be granted, and Channel 245C3 be allotted to Christine, Texas, Petitioner will apply for Channel 245C3 at Christine, Texas and after it is authorized, will promptly construct the new facility.

The factual information provided in this Counterproposal is correct and true to the best of my knowledge.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Katherine Pyeatt", is written over a horizontal line.

Katherine Pyeatt

6655 Aintree Circle

Dallas, Texas 75214

(214) 363-6030      Tele

cc: Gene A. Bechtel, Law Office of Gene Bechtel, Suite 600, 1050 17<sup>th</sup> Street, N.W.,  
Washington, D.C. 20036, telephone (202) 496-1289, telecopier (301) 762-0156, attorney  
for Katherine Pyeatt. It is requested that the Commission and any parties who may file  
pleadings in the captioned matter serve copies to Mr. Bechtel as well as Katherine Pyeatt.

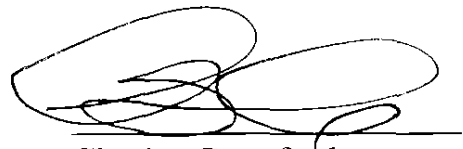
May 27, 2003

## **Attachment A**

## STATEMENT OF CHARLES CRAWFORD

My name is Charles Crawford and I am the original proponent and the only person to file an expression of interest in the pending allotment of Channel 245C3 at Tilden, Texas. Additionally, I am the proponent of Channel 250A at George West, Texas. It is my understanding that Ms. Pyeatt is proposing Channel 250A as a replacement Channel for Tilden while also proposing a 1<sup>st</sup> service to the community of Christine, Texas. Given that her proposal will allow for a 1<sup>st</sup> service to the deserving community of Christine, Texas while still providing for a channel at Tilden, Texas, I support her proposal to replace the C3 proposed service at Tilden with a class A replacement. Should the Commission grant her proposal and replace the proposed service at Tilden with a class A station, it is still my intention to file for that station when made available and if granted to promptly construct the new facility.

My approval of the proposed change at Tilden from a class C3 to a class A is not intended to indicate that I have withdrawn my expression of interest for channel 250A at George West. Should the Commission decide that the public interest is best served by allotting channel 250A to George West then I will apply for that station and after it is authorized, will promptly construct the new facility.

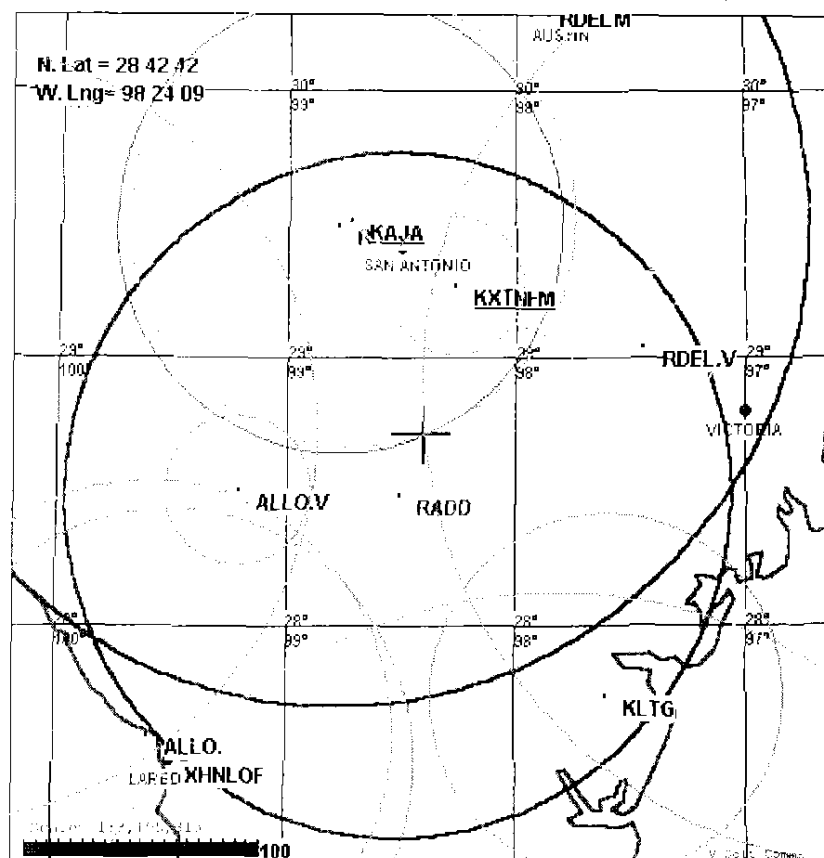


5/23/13

Charles Crawford

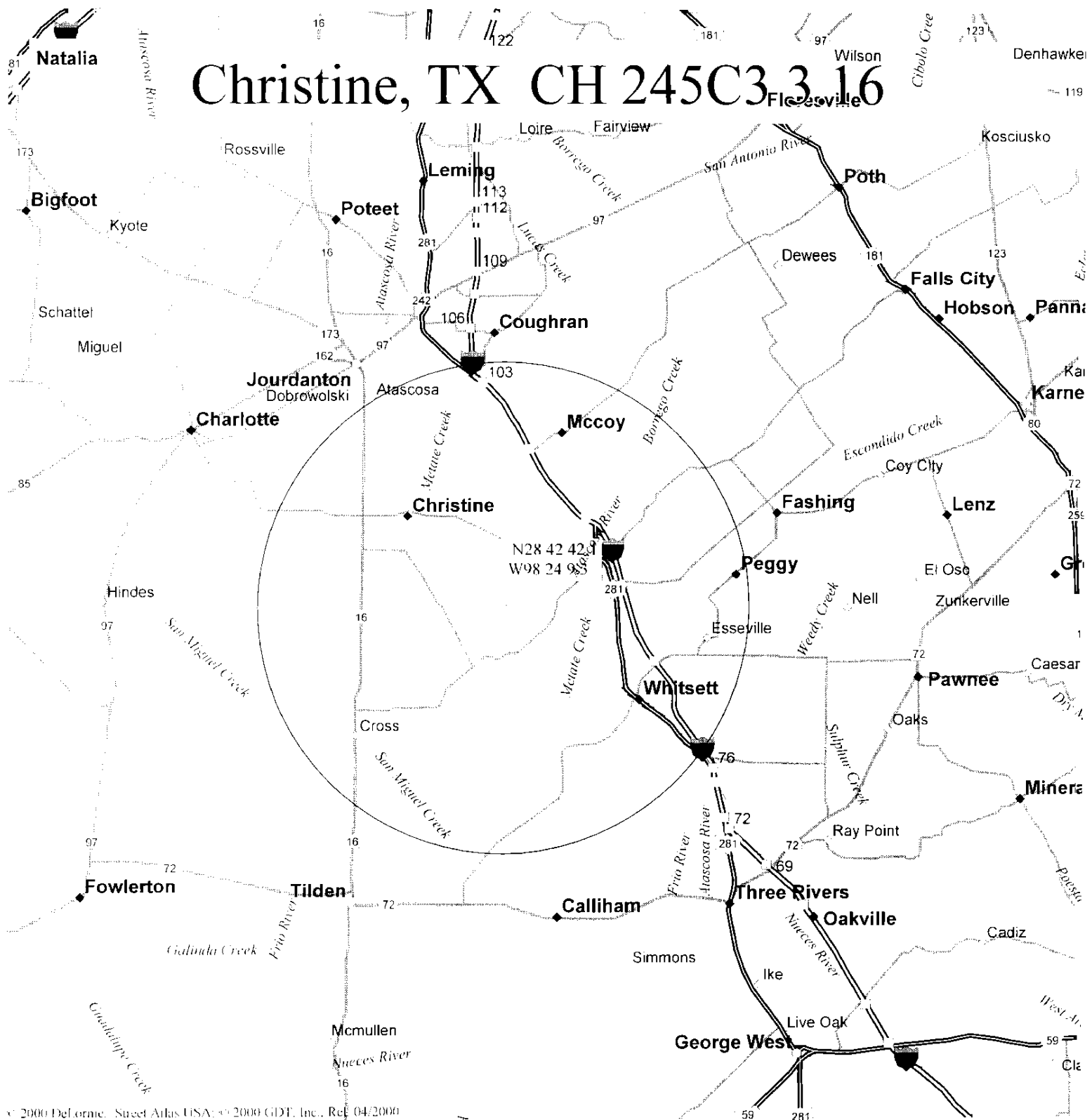
## **Attachment B**

FM PROSP<sup>TM</sup> LOCATE STUDY CH 245 C3 96.9 MHz  
Study



Call	CH#	Type	Location		D-KM	Azi	FCC	Margin
RADD	245C3	ADD	Tilden	TX	27.08	203.1	142.0	-114.92
RADD	245C1	ADD	San Antonio	TX	94.75	337.5	200.0	-105.25
RDEL	247C	DEL	San Antonio	TX	94.75	337.5	95.0	-0.25
KAJA	247C*	LIC	San Antonio	TX	95.27	341.0	95.0	0.27
KIOXFM	245C1	LIC	El Campo	TX	200.31	83.7	200.0	0.31
KXTNFM	298C*	LIC	San Antonio	TX	63.85	12.1	29.0	34.85
ALLO.	244C		Piedras Negras	CI	206.58	270.4	161.0	45.58
ALLO.V	242A	VAC	Cotulla	TX	82.45	254.1	31.0	51.45
KHFIFM	244C1	LIC	Georgetown	TX	187.81	17.9	133.0	54.81
RDEL	244C1	DEL	Georgetown	TX	187.81	17.9	133.0	54.81
KFTX	248C1	LIC-D	Kingsville	TX	133.19	143.8	75.0	58.19
KLTG	243C1	LIC-D	Corpus Christi	TX	133.19	143.8	75.0	58.19
ALLO.	246B		Nuevo Laredo	TA	170.54	223.6	105.0	65.54
RDEL	244C1	DEL	Georgetown	TX	199.66	14.4	133.0	66.66
XHNLOF	246B	OPE	Nuevo Laredo	TA	173.50	218.6	105.0	68.50
ALLO.V	242A	VAC	Yorktown	TX	100.63	68.4	31.0	69.63
RDEL	242A	DEL	Yorktown	TX	100.63	68.4	31.0	69.63
KVMV	245C*	LIC	Mcallen	TX	296.91	168.9	226.0	70.91

# Christine, TX CH 245C3.3.16



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Mag 10.00

Thu May 15 19:38 2003

Scale 1:500,000 (at center)

10 Miles

10 KM

- Local Road
- Rest Area
- US Highway
- Interstate/Limited Access
- Major Connector
- State Route
- Exit
- County Seat

- Small Town
- Locale
- Land
- Water
- River/Canal
- Intermittent River

## **Attachment C**

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	
Table of Allotments,	)	MM Docket No. 00-148
FM Broadcast Stations.	)	RM-9939
(Quanah, Archer City, Converse, Flatonia,	)	RM-10198
Georgetown, Ingram, Keller, Knox City,	)	
Lakeway, Lago Vista, Llano, McQueeney,	)	
Nolanville, San Antonio, Seymour, Waco and	)	
Wellington, Texas, and Ardmore, Durant,	)	
Elk City, Healdton, Lawton and Purcell,	)	
Oklahoma.)		

**REPORT AND ORDER**  
(Proceeding Terminated)

**Adopted: May 7, 2003**

**Released: May 8, 2003**

By the Chief, Audio Division:

1. The Audio Division has before it a *Notice of Proposed Rule Making* in the captioned proceeding.<sup>1</sup> Nation Wide Radio Stations filed Comments and Reply Comments. First Broadcasting Company, L.P., Rawhide Radio, L.L.C., Next Media Licensing, Inc., Capstar TX Limited Partnership and Clear Channel Broadcast Licenses, Inc. ("Joint Parties") filed a Counterproposal and Reply Comments. Fritz Broadcasting Co., Inc. and M&M Broadcasters, Ltd. filed Joint Reply Comments. Elgin FM Limited Partnership and Charles Crawford ("Elgin-Crawford") jointly filed Reply Comments and Maurice Salsa filed Reply Comments.<sup>2</sup> For the reasons discussed below, we are dismissing both the initial proposal for Channel 233C3 at Quanah, Texas, and the Counterproposal.

Background

2. At the request of Nation Wide Radio Stations, the *Notice* in this proceeding proposed the allotment of Channel 233C3 to Quanah, Texas.<sup>3</sup> In response to the *Notice*, the Joint Parties filed a Counterproposal involving twenty-two communities in Texas and Oklahoma. In one aspect of this Counterproposal, the Joint Parties propose the substitution of Channel 248C for Channel 248C2 at Durant, Oklahoma, reallocation of Channel 248C to Keller, Texas, and modification of the Station KLAJ license to specify operation on Channel 248C at Keller, Texas. In order to accommodate this allotment,

<sup>1</sup> 15 FCC Red 15809 (MM Bur. 2000).

<sup>2</sup> In this proceeding, Texas Grace Communications, Elgin FM Limited Partnership, Charles Crawford, Maurice Salsa, M&M Broadcasters, AM&FM Broadcasters and the Joint Parties have filed additional pleadings. In view of our action dismissing the Joint Parties Counterproposal, it will not be necessary to discuss these pleadings in the context of this *Report and Order* terminating this proceeding.

<sup>3</sup> Nation Wide Radio Stations has withdrawn its expression of interest in this allotment. In accordance with Section 1.420(j) of the Rules, Nationwide Radio Stations states that neither it nor any of its principals have been paid or promised any consideration for the withdrawal of its expression of interest in the Quanah allotment.

the Joint Parties propose three channel substitutions. Included among those substitutions was the substitution of Channel 230C1 for Channel 248C1 at Archer City, Texas, and the modification of the Station KRZB permit to specify operation on Channel 230C1. On the basis of our own engineering review, Joint Reply Comments filed by Fritz Broadcasting Co., Inc. and M&M Broadcasters, Ltd., and Reply Comments filed by Maurice Salsa, the proposed transmitter site (33-36-58 and 98-51-42) for the Channel 230C1 allotment at Archer City is short-spaced to a prior-filed application filed by AM & FM Broadcasters, LLC, licensee of Station KICM, Channel 229C2, Krum, Texas, to upgrade to Channel 229C1 (File No. BMPH-20000725AAZ) (the "KICM Class C1 Application").

3. Counterproposals that are in conflict with a previously filed application can be considered if the counterproposal is amended to remove the conflict within 15 days from the date the counterproposal appears on public notice.<sup>4</sup> The Note also requires a counterproponent to show that it could not have known by exercising due diligence of the pending conflicting FM application. The Joint Parties and AM & FM Broadcasters submitted Reply Comments addressing this issue. Under the agreement, AM & FM Broadcasters agrees to file an application to downgrade Station KICM to Channel 229C2 in the event its application is granted and the Counterproposal is adopted. Pursuant to the agreement, the Joint Parties would "compensate" AM & FM Broadcasters for the downgrade of Station KICM. On August 20, 2001, the staff granted the KICM Class C1 Application.

#### Discussion

4. We dismiss the Counterproposal because the proposed Archer City Channel 230C1 allotment is short-spaced to the KICM Class C1 construction permit. The Joint Parties have not shown that they could not have known about the then-conflicting KICM Application. Nor have the Joint Parties sought to amend their Counterproposal to protect the proposed Archer City Channel 230C1 allotment.

5. The Commission does not entertain a short-spaced allotment that is contingent on the grant of another application.<sup>5</sup> This is precisely what the Joint Parties seek. The Archer City allotment is short-spaced to the KICM construction permit and contingent on the staff granting future applications by AM & FM Broadcasters for both a Class C2 construction permit and license. We reject Joint Parties argument that its downgrade proposal complies with the contingent application procedures set forth in Section 73.3517(e) of the Commission's Rules. Section 73.3517(e) permits the simultaneous acceptance of contingent *minor change applications*. It does not authorize the filing of contingent rulemaking petitions. Accordingly, the Counterproposal must be dismissed.

#### Alternative Proposals

6. The Joint Parties filed an alternative twelve-allotment proposal in anticipation of a staff determination that the Channel 230C1 Archer City allotment is impermissibly short-spaced to the KICM permit. We reject this alternative. A counterproposal must conflict with the proposal set forth in the *Notice*.<sup>6</sup> In this instance, none of these proposals conflict with Nation Wide Radio Station's initial proposal for a Channel 233C3 allotment at Quanah. As such, we will not bifurcate the Counterproposal or otherwise consider any of these proposals in the context of this proceeding.<sup>7</sup>

<sup>4</sup> See Note to Section 73.208 of the Rules; see also *Conflicts Between Applications and Petitions for Rule Making to Amend the FM Table of Allotments*, 8 FCC Red 4743 (1993).

<sup>5</sup> See *Oxford and New Albany, Mississippi*, 3 FCC Red 615 (MM Bur. 1988), *recon.* 3 FCC Red 6626 (MM Bur. 1988); see also *Cut and Shoot, Texas*, 11 FCC Red 16383 (MM Bur. 1996).

<sup>6</sup> See *Implementation of BC Docket No. 80-90 to Increase the Availability of FM Broadcast Assignments*, 5 FCC Red 931, n. 5 (1990).

<sup>7</sup> See also *Broken Arrow and Bixby, Oklahoma, Coffeyville, Kansas*, 3 FCC Red 6507 (MM Bur. 1988).

7. In the event that its Counterproposal can not be favorably entertained, the Joint Parties advance two alternative proposals. The staff no longer entertains alternative proposals set forth in counterproposals.<sup>8</sup> In any event, each of these alternatives fails to comply with our rules and procedures. The first proposal involves the proposal to reallocate Channel 248C to Keller, Texas, and modify the Station KLAK license to specify operation on Channel 248C at Keller. A Channel 248C allotment at Keller requires the substitution of Channel 230C1 at Archer City, and thus, cannot be considered. The second alternative only proposes the substitution of Channel 247C1 for Channel 248C at Waco, Texas, reallocation of Channel 247C1 to Lakeway, Texas, and modification of the Station KWTX license to specify operation on Channel 247C1 at Lakeway. The Joint Parties also proposed related channel substitutions necessary to accommodate this reallocation. However, none of these proposed channel substitutions conflict with the underlying Channel 233C3 allotment at Quanah, Texas, proposed in the *Notice*.

8. Accordingly, IT IS ORDERED, That the aforementioned proposal filed by Nation Wide Radio Stations for a Channel 233C3 allotment at Quanah, Texas, IS DISMISSED.

9. IT IS FURTHER ORDERED, That the aforementioned Counterproposal filed by the Joint Parties IS DISMISSED.

10. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

11. For further information concerning this proceeding, contact Robert Hayne, Media Bureau, (202) 418-2177.

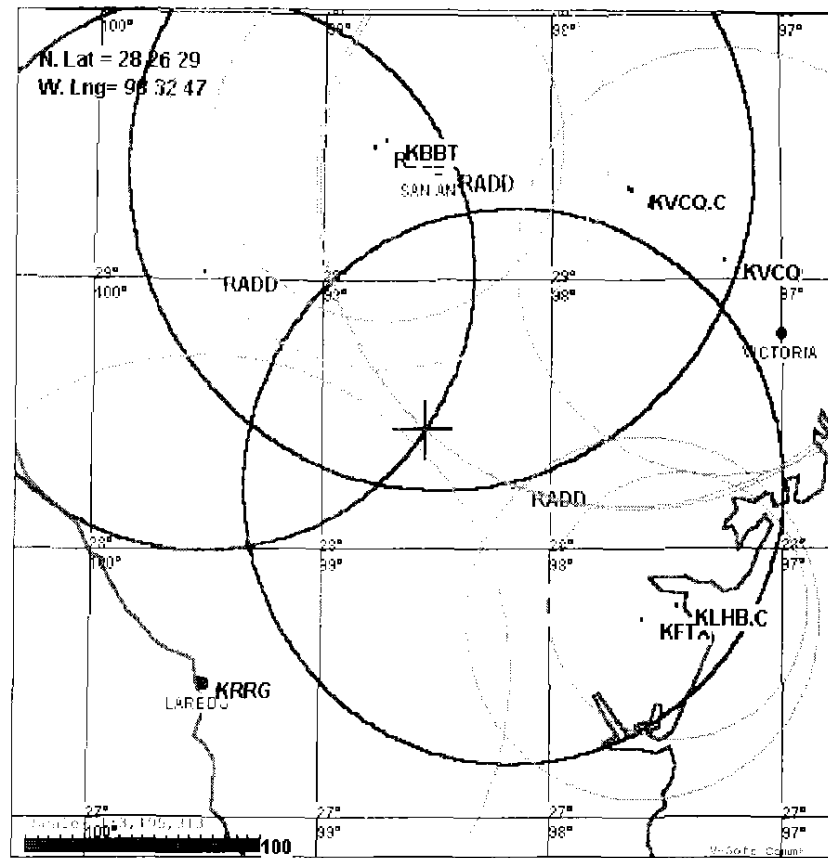
FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

<sup>8</sup> See *Winslow, Camp Verde, Mayer and Sun City West, Arizona*, 16 FCC Rcd 9551 (MM Bur. 2001).

## **Attachment D**

FM PROSP<sup>TM</sup> LOCATE STUDY CH 250 A 97.9 MHz  
Study



Call	CH#	Type	Location		D-KM	Azi	FCC	Margin
RADD	250A	ADD	George West	TX	44.08	121.2	115.0	-70.92
RADD	249C1	ADD	Converse	TX	108.49	3.2	133.0	-24.51
RDEL	249C1	DEL	McQueeney	TX	108.49	3.2	133.0	-24.51
RADD	249C1	ADD	Converse	TX	108.49	3.2	133.0	-24.51
RADD	250A	ADD	Batesville	TX	114.80	304.7	115.0	-0.20
ALLO.R	249C1	RSV	McQueeney	TX	133.09	40.0	133.0	0.09
KVCQ.C	249C1	CP	McQueeney	TX	133.31	40.9	133.0	0.31
KRRG	251C1	LIC	Laredo	TX	140.07	223.3	133.0	7.07
RDEL	247C	DEL	San Antonio	TX	119.52	349.2	95.0	24.52
KAJA	247C*	LIC	San Antonio	TX	121.19	351.9	95.0	26.19
KFTX	248C1	LIC-D	Kingsville	TX	120.96	129.8	75.0	45.96
KBBT	253C1	LIC	Schertz	TX	121.19	351.9	75.0	46.19
KVCQ	249C3	LIC-Z	McQueeney	TX	145.67	60.8	89.0	56.67
KLHB.C	252C2	CP	Odessa	TX	129.60	123.7	55.0	74.60

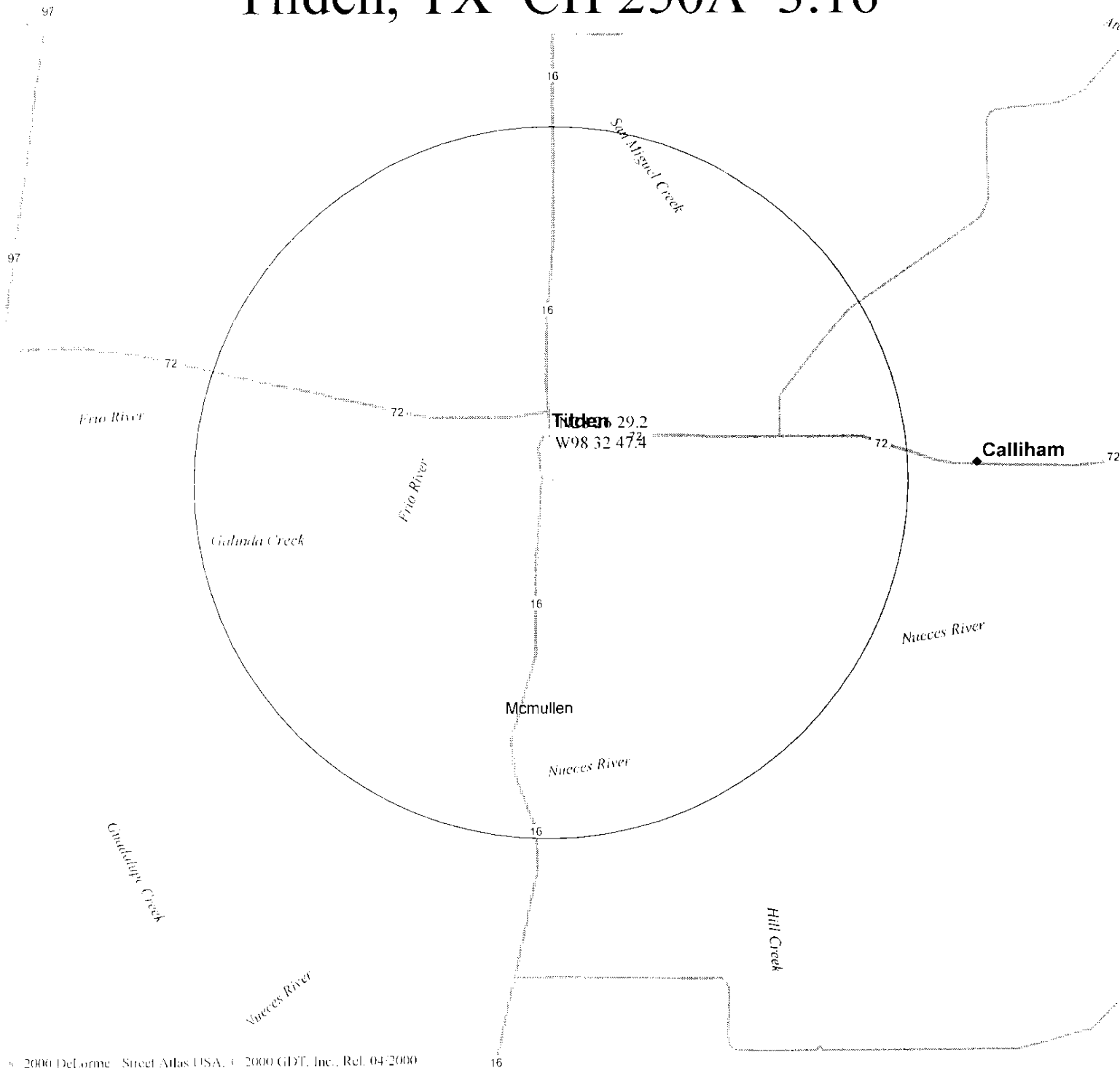
San Miguel Creek

# Tilden, TX CH 250A 3.16

Metate

281

Arto



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Mag 11.00

Thu May 15 19:50 2003

Scale 1:250,000 (at center)

5 Miles

5 KM

- US Highway
- Major Connector
- State Route
- County Seat
- Small Town
- Land
- Water
- River/Canal

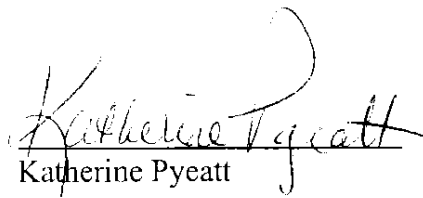
Intermittent River

### **CERTIFICATE OF SERVICE**

I, Katherine Pyeatt, do hereby certify that I have on this 27<sup>th</sup> day of May, 2003, caused to be mailed by first class mail, postage prepaid, copies of the foregoing **“Counterproposal”** to the following:

John Karousos, Assistant Chief  
Audio Division of the Media Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Charles Crawford  
4553 Bordeaux Ave.  
Dallas, Texas 75205

  
Katherine Pyeatt